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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/809,772	03/25/2004	Soo S. Ko	PH 7054 DIV2	7934
23914	7590	09/25/2007	EXAMINER	
LOUIS J. WILLE BRISTOL-MYERS SQUIBB COMPANY PATENT DEPARTMENT P O BOX 4000 PRINCETON, NJ 08543-4000			HABTE, KAHSA Y	
			ART UNIT	PAPER NUMBER
			1624	
			NOTIFICATION DATE	DELIVERY MODE
			09/25/2007	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

uspatents@BMS.COM  
patents@bms.com  
eileen.immordino@bms.com

<b>Response to Rule 312 Communication</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/809,772	KO ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Kahsay Habte	1624	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

1. ☒ The amendment filed on 16 August 2007 under 37 CFR 1.312 has been considered, and has been:

- a) ☒ entered.
- b) ☐ entered as directed to matters of form not affecting the scope of the invention.
- c) ☐ disapproved because the amendment was filed after the payment of the issue fee.

Any amendment filed after the date the issue fee is paid must be accompanied by a petition under 37 CFR 1.313(c)(1) and the required fee to withdraw the application from issue.

- d) ☐ disapproved. See explanation below.
- e) ☐ entered in part. See explanation below.

*Please see Petition Decision (9/17/2007).*



Kahsay Habte  
Primary Examiner  
Art Unit: 1624



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LOUIS J. WILLE  
BRISTOL-MYERS SQUIBB COMPANY  
PATENT DEPARTMENT  
P O BOX 4000  
PRINCETON NJ 08543-4000

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SEP 17 2007

**OFFICE OF PETITIONS**

In re Application of :  
Ko, et al. :  
Application No. 10/809,772 : **DECISION ON PETITION**  
Filed: March 25, 2004 : **UNDER 37 CFR 1.78(a)(3)**  
Attorney Docket No. PH 7054 DIV2 :

This is a decision on the reconsideration petition under 37 CFR 1.78(a)(3), filed August 16, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to the prior-filed nonprovisional application set forth in the concurrently filed amendment.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

- (1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
- (2) the surcharge set forth in § 1.17(t); and
- (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

**The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37**

*CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.*

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3230. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 1624 for consideration by the examiner of applicants' entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed application.



Shirene Willis Brantley  
Senior Petitions Attorney  
Office of Petitions

**ATTACHMENT:** Corrected Filing Receipt